

UNITED STATES OF AMERICA)
)
v.) No. 2:11-CR-00025-JRG
)
HOMER EUGENE BANNER)

This matter is before the Court on Defendant Homer Eugene Banner’s letter [Doc. 43] and the United States’ Response in Opposition [Doc. 46]. Mr. Banner moves the Court for “compassionate relief under 18 U.S.C. § 3582(c)(1)(A),” stating that he has underlying medical conditions that put him at a heightened risk of severe illness if he were to contract COVID-19. [Def.’s Mot. at 1].

The court may not modify a term of imprisonment once it has been imposed except that . . . the court, upon motion of the Director of the Bureau of Prisons, or upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant's behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant's facility, whichever is earlier, may reduce the term of imprisonment[.]

§ 3582(c)(1)(A). Mr. Banner claims that he “filed to [his] warden for compassionate release[],” [Def.’s Mot. at 1], but the United States argues that the Court should reject Mr. Banner’s request for compassionate release because he “has not proven that he” petitioned the warden, [United States’ Resp. at 7].

While the Court sympathizes with Mr. Banner’s concerns, Mr. Banner must provide the Court with documentation showing that he has indeed petitioned the warden for compassionate release. *See United States v. Crawford*, No. 2:18-cr-00075-3, 2020 WL 3050218, at *1 (S.D. Ohio June 8, 2020) (denying the defendant’s motion for compassionate release because he provided the court with “no documentation corroborating” that he had met § 3582(c)(1)(A)’s exhaustion requirement); *see also United States v. Dickson*, No. 1:19-cr-251-17, 2020 WL 1904058, at *2 n.1 (N.D. Ohio Apr. 17, 2020) (stating that the defendant failed to demonstrate that he satisfied § 3582(c)(1)(A)’s exhaustion requirement because he provided the court with no documentation to that effect). Until then, the Court will be unable to consider Mr. Banner’s request for compassionate release. *See United States v. Alam*, 960 F.3d 831, 833–36 (6th Cir. 2020) (determining that § 3582(c)(1)(A)’s exhaustion requirement is mandatory and that courts lack license to create a judge-made or an equitable exception to it). Mr. Banner’s motion [Doc. 43] is therefore **DENIED without prejudice**.

So ordered.

ENTER:

s/J. RONNIE GREER
UNITED STATES DISTRICT JUDGE